

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America,)
)
Plaintiff,)
) CR15-00707-PHX-SRB
vs.) Phoenix, Arizona
) March 8, 2016
Abdul Malik Abdul Kareem,)
)
Defendant.)
)
)
)

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE
EXCERPT OF REPORTER'S TRANSCRIPT OF PROCEEDINGS
TESTIMONY: ABDUL KHABIR WAHID
JURY TRIAL - DAY #13

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Proceedings Reported by Stenographic Court Reporter
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CR15-00707-SRB ABDUL KHABIR WAHID 3-8-16

E X C E R P T O F P R O C E E D I N G S

MR. MAYNARD: Defense is going to call Abdul Khabir Wahid.

(Witness affirmed.)

THE CLERK: Please state your name for the record, spelling your last name.

THE WITNESS: Abdul Khabir Wahid. W-A-H-I-D.

THE CLERK: Can you spell your middle name?

THE WITNESS: That is my first name.

THE CLERK: Can you spell it?

THE WITNESS: A-B-D-U-L. K-H-A-B-I-R.

THE COURT: You may proceed, Mr. Maynard.

ABDUL KHABIR WAHID, WITNESS, SWORN

DIRECT EXAMINATION

BY MR. MAYNARD:

Q Good morning, Mr. Wahid.

A Good morning.

Q Could you introduce yourself to the jury. What is your full name?

A Abdul Khabir Wahid.

Q Okay. We have -- do you go by any other names?

A AK or Abdul Khabir.

Q And we have heard some people talking about Abdul Khabir Hyman. Have you ever gone by Hyman?

A At one time, yeah.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Could you pull the microphone a little bit closer to you?

2 All right. Where do you currently live? What town
3 do you live in?

4 A Phoenix.

5 Q And how long have you been living in Phoenix?

6 A About 21 years.

7 Q Do you have any children?

8 A Yes.

9 Q And who are those children?

10 A Waseem, Jazmin, and Sakeehan.

11 Q And has one of your children testified in this case
12 already?

13 A Yes.

14 Q And which one was that?

15 A Waseem.

16 Q Now, are you a Muslim?

17 A Yes.

18 Q And how long have you been a Muslim?

19 A For 21 years.

20 Q What brought you to Phoenix originally?

21 A Just wanted a change. I was living in Philly and I just
22 decided to move out here.

23 Q Where did you originally live?

24 A Philadelphia.

25 Q Okay. Do you know the defendant in this case Abdul Malik

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Abdul Kareem?

2 A Yes.

3 Q Did you know him in Philadelphia?

4 A No.

5 Q Are you related to him in any way?

6 A We share a cousin.

7 Q Okay. Can you explain that to the jury?

8 A We have a cousin -- I'm related to his cousin from his
9 father's side. He's related to the same cousin from his
10 mother's side. So we call each other "cousin" because we
11 share a cousin.

12 Q Okay. You're not related through blood but you're related
13 somehow through marriage?

14 A Right.

15 Q And when did you learn that you two were related through
16 marriage?

17 A Probably about three years ago.

18 Q When did you first meet Abdul Kareem?

19 A I think roughly about three years ago.

20 Q And how is it that you came to meet him? Where did you
21 meet him?

22 A Through Ibrahim.

23 Q And Ibrahim is also known as who?

24 A Elton Simpson.

25 Q Okay. How long have you known Elton Simpson?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Since he was 19.

2 Q And how did you meet Elton Simpson?

3 A Through the masjid.

4 Q Did you two go to the same masjid?

5 A Yes.

6 Q Did -- and when you say you met Mr. Abdul Kareem through
7 Elton Simpson, do you recall how that was, where you guys
8 were, anything of that nature?

9 A I believe he was -- he came by my house with him in a car
10 and that's how we got introduced.

11 Q Okay. Now, did there come a point in time when you
12 learned that Elton Simpson was actually living with Mr. Abdul
13 Kareem?

14 A Yeah. I assume so, yeah, because they -- I don't know
15 exactly how the arrangement was, because they was staying
16 somewhere and he just happened to be staying there. But I
17 don't think it was his place at the time. I'm not sure. I
18 don't think it was Abdul Malik's place. I think it was the
19 other brother's place that they were staying all together.

20 Q Was that an apartment on Vista?

21 A I believe so.

22 Q Okay. Did you recall when they moved to Cochise?

23 A No. I can't remember exactly when they moved to Cochise.

24 Q Did you ever go to the house on Cochise while Simpson was
25 living there with Mr. Abdul Kareem?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Yeah. I'm trying to think. I'm trying to think. I
2 remember him living there. I don't remember -- I'm trying to
3 remember if I remember him living there and, yeah, I guess,
4 yeah.

5 Q Okay. Were there times that you guys socialized together?
6 Did you go out to eat? What was your relationship with those
7 two?

8 A We were hanging -- it was funny. He liked to go out and
9 eat. He liked to go out and drink Chia and go places and
10 drink a lot of tea.

11 So we were always going out to basically either an
12 Afghani restaurant or to Paradise Bakery. That was his place.
13 He loved going there, so.

14 Q Were there ever times when you would borrow Mr. Abdul
15 Kareem's car?

16 A Yeah.

17 Q Do you recall an incident that occurred in the summer of
18 2013 that involved Mr. Abdul Kareem's car while Mr. Simpson
19 was still living with him?

20 A What incident are you talking about?

21 Q That's what I want you to tell the jury.

22 A Oh.

23 Q Do you recall there being a time when Mr. Abdul Kareem got
24 upset when you had borrowed his car?

25 A No. I don't think I remember him getting upset when I

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 borrowed his car. I just remember the time when he tore his
2 car up looking for something, whatever he was looking for.

3 Q Tell the jury what you're referring to when you say he
4 tore his car up.

5 A He was -- he was looking in his car and he was trying
6 to -- I don't know what he was looking for at first, but he
7 ended up sending us pictures of what he found.

8 And I was amazed because he somehow tore completely
9 through the car and he pulled out this giant box. And he was
10 saying -- I think he thought -- if I remember correctly, I
11 think he thought Ibrahim had something to do with it as far as
12 the FBI was concerned because he wanted to know where did this
13 looking -- this recording-looking-like device, how did it get
14 in his car.

15 So we were all trying to figure out how it get in his
16 car too, you know, so -- because somehow he got it -- I don't
17 know like it was deep inside the car and he got it out. He
18 pulled it out. It was a big box like maybe that big.

19 (Indicating)

20 Q Did he accuse you and Ibrahim of doing something to his
21 car?

22 MS. BROOK: Objection. Hearsay.

23 THE COURT: Overruled. You may answer "yes" or "no."

24 THE WITNESS: Okay. Thank you.

25 Say that again? Say the question again.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 BY MR. MAYNARD:

2 Q Did he accuse you or Ibrahim of doing something to his
3 car?

4 A I think he -- he didn't accuse me, but I think he said
5 something to the fact that he was wondering, did Ibrahim have
6 anything to do with it with the FBI, that possibly they were
7 following him because Ibrahim and they put that thing in his
8 car, the box or whatever it was.

9 Q Was he living with Ibrahim at the time?

10 A Yeah. Yeah. Come to think of it, yeah.

11 Q Did Ibrahim continue to live with him after he found
12 whatever it was in his car?

13 A No.

14 Q What happened?

15 A He got mad and he -- he got mad and he threw him out. It
16 was somebody else that was staying there. I can't remember
17 his name but there was two of them standing there. And he
18 ended up telling them they had to leave, so they both left.

19 Q So Abdul Malik threw Ibrahim out of the house at some
20 point?

21 A Right.

22 Q Do you recall when that was?

23 A No. I do remember but I don't remember the time frame
24 exactly.

25 Q Do you remember who the other man was that he also threw

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 out of the house?

2 A I think he was kind of a fat guy. I think his name was
3 Abdul Rakman or something like that. I think Rakman. I'm not
4 sure.

5 Q Okay. Did you -- you still remained friends with Ibrahim
6 after that incident?

7 A Yeah.

8 Q And do you know where Ibrahim moved to after that?

9 A He moved to Nadir's -- he was in Nadir's apartment.

10 Q Did you know Nadir Soofi?

11 A Yeah.

12 Q And when did you first meet Nadir Soofi?

13 A I met him a long time ago in the masjid. I would see him
14 like you see brothers in the masjid, but I didn't actually
15 know him until Ibrahim -- you know, he and Ibrahim became
16 friends and that's when I actually got to know him. But I've
17 seen him a few times, but I didn't know him. As I would say
18 like maybe, probably about two years ago.

19 Q Now, after Ibrahim moves in with Nadir Soofi, do you
20 continue to see Abdul Malik?

21 A Yeah.

22 Q And where would you see him? What kind of relationship
23 did you guys have?

24 A He liked to cook a lot. He liked to cook so he was always
25 inviting us over to eat. And we were always running to his

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 house. He was always hungry, so we would always go to his
2 house and eat.

3 Q Do you recall whether or not after he threw Simpson out,
4 whether they stayed friends or was there a period of time when
5 they didn't see each other, if you know?

6 A No, I think they stayed friends. Yeah.

7 Q Now, did you and -- and Abdul Malik continue to see each
8 other into 2014 and 2015?

9 A Yeah.

10 Q Okay. Would you go with him to get tea or go to eat and
11 things of that nature?

12 A Yeah.

13 Q Do you -- how often would you go over to Abdul Malik's
14 house on Cochise after Simpson moved out?

15 A Lots of times -- to be honest with you, lots of times
16 Simpson would come pick me up and take me to his house because
17 I didn't have a car at the time. So I would say maybe about
18 two, three times a week, something like that.

19 Q Okay. In 2014, if you can recall, can you tell the jury
20 who was living with Abdul Malik?

21 A I want to say because I'm not too sure, it might have been
22 either Lupe or Stefan. I'm not sure. I don't remember which
23 one.

24 Q Do you remember -- do you remember an individual by the
25 name of Stefan Verdugo?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Yeah.

2 Q And how did you meet him?

3 A I met him through Abdul Malik.

4 Q And was there a time period when he would live with Abdul
5 Malik?

6 A Yeah.

7 Q Okay. Did other individuals live with Abdul Malik at
8 different times?

9 A Yeah. Lots of people. He was always taking people in. I
10 was always telling him you need to leave them people out on
11 the street, but he was always taking people in, so.

12 Q Okay. You mentioned an individual by the name of Lupe?

13 A Uh-huh.

14 Q Do you recall who Lupe was?

15 A Lupe was the neighbor from across the street, so.

16 Q Was he over 21 years old or --

17 A I think he was like 20 or something like that, I believe.

18 Q Do you remember there being a couple of younger boys that
19 lived across the street?

20 A His brothers, yeah.

21 Q Did you ever see them at Abdul Malik's?

22 A Uh-huh.

23 Q Is that a "yes"?

24 A Yes. I'm sorry.

25 Q Okay. No. That's fine. Do it for the court reporter for

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 the record.

2 Did you know whether or not Abdul Malik had guns?

3 A Yeah.

4 Q Okay. Did he?

5 A Yes.

6 Q What kind of guns did Abdul Malik have?

7 A Probably maybe -- I'm not sure if it was a small gun or a
8 large gun, but he had a gun. That's all I remember.

9 Q Was it a pistol or was it a rifle that you saw?

10 A I believe a pistol. I'm not sure. I think a pistol.

11 Q Were you ever with him when he bought a gun?

12 A I think I might have been. Think I might have been, yeah.

13 Q Can you tell the jury approximately when that was or what
14 you recall about that?

15 A I can't. That's one thing. I'm bad with dates. I can't
16 remember dates.

17 Q Okay.

18 A I just -- I remember it being -- I remember him being at
19 night and I just remember him going outside. And I guess he
20 bought it off of some kind of Internet thing with some guy he
21 met and he got a gun and that was it.

22 Q Was it during the day or was it --

23 A It was at night.

24 Q Was it in a store or was it in a parking lot?

25 A Parking lot, I believe.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Did he buy it from a guy who pulled up in a car and took
2 it out of his car?

3 A Yeah.

4 Q Or do you remember?

5 A Yeah.

6 Q Okay. You didn't have anything to do with it? You just
7 happened to be in the car when that happened?

8 A No. No. I was just sitting in the car at the time.

9 Q Do you own any guns?

10 A No.

11 Q Okay. Now, you and Simpson remained friends. How often
12 would you see each other -- and I'm going to focus you on this
13 Garland event when Mr. Simpson was killed.

14 A Okay.

15 Q Five or six months prior to that, how often were you
16 seeing Mr. Simpson?

17 A Sometimes like two or three times a week.

18 Q Okay. Now, did he come to your place or did you go to his
19 place?

20 A He would always come pick me up because I had no car. He
21 had a car so he would always come pick me up.

22 Q Did he know your kids?

23 A Yeah.

24 Q Did -- was there ever a time when Mr. Simpson indicated to
25 you that he wanted to do something to an American military

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 base?

2 A He mentioned it, yeah.

3 Q Tell the jury what you recall Mr. Simpson telling you.

4 A If I remember, he came by my house and he told me that it
5 was -- I don't want to -- I'm not sure if it was a Navy base
6 or Marine or whatever it was, but I know it was some sort of
7 military base.

8 And he came by my house and he told me that him and
9 Nadir had planned to go there and to light it up, I guess, so
10 to speak. And he informed me, he said, you know, you can come
11 too if you want.

12 I was like, oh, no, brother, I got my kids to think
13 about. That's cool, you know.

14 So he left and I was like kind of worried because I
15 wasn't sure if he was going to do it or not, but I was
16 wondering. Like, I don't know, because he just seemed a
17 little strange to me.

18 So he left and I think he came back a couple days
19 later and said: I didn't go through.

20 And I said: Well, what happened to it?

21 He said: Well, he said that he -- he believed the
22 door was locked or something and that prevented him from
23 getting inside to go start shooting at people. So that's what
24 happened.

25 Q Why didn't you call the law enforcement or police or

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 somebody?

2 A Well, it was -- to me, to be honest with you, it seemed
3 unusual to me and it was shocking and it was -- it just didn't
4 seem real. And I didn't really think he would do anything
5 like that.

6 And at the same time, I also thought, hum, would he
7 do something to me? Because I wasn't sure where his mind was
8 going because I just know he was changing gradually over a
9 period. But I wasn't really too sure, so I just didn't think
10 nothing of it and I go, okay, whatever, and I left it alone.

11 Q You've known Elton Simpson since he's 19 years old.

12 A Right.

13 Q What do you mean by you saw changes coming onto him the
14 last six months?

15 A Well, he was constantly -- he constantly, constantly
16 referred to jannah and Ahadith. Ahadith are considered to be
17 seven holy wives that you get in Paradise when you die. And
18 so he was constantly, constantly referring to, you know,
19 Ahadith, Ahadith, Ahadith.

20 And he started showing me these videos. He was
21 showing it to me on his phone. And I don't know where he was
22 getting these videos from, but he was finding them and they
23 were really, real graphic.

24 They had me to the point where I was like when he hit
25 the house, I would be sitting here just like -- I was just

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 devastated, like shocked. I couldn't believe -- I was like --
2 and I noticed that he would have, like, when he showed me the
3 video of the guy being burned in the cage, he had this look on
4 his face like, yes, justice is right and he was a big gleam.

5 And I thought, okay, that's not cool, you know. And
6 I didn't know what to say to him. I was just shocked because
7 he kept -- he showed me like a beheading video. He showed me
8 a video of a man being burned in a cage and he showed me the
9 third video because he only showed me three.

10 The third video he showed me of a guy that was
11 apparently a homosexual and they found out about it and they
12 didn't approve of it, so they took and they tossed him
13 literally off the top of this building. And he lived, but
14 they tossed him off the building and he showed me that and
15 that was it.

16 Q What was your reaction to those videos when he showed them
17 to you?

18 A I didn't know what to think. I was just like, okay, you
19 know, just kind of shocked, kind of stunned, because I didn't
20 know what to think. I would just look -- I was just numb, you
21 know, speechless, didn't say much to him. Just look at him
22 like, oh, okay, yeah, you know.

23 And then it got to a point where when he came back to
24 show me the video again, the second and third time, I think I
25 may have mentioned it to Abdul Malik like sort of like in

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 secrecy, you know, if he showed me another video, I'm going to
2 talk to him and tell him, yo, that's not cool, you can't keep
3 showing me these videos, you know, I'm just not into that.

4 So I didn't want to hurt his feelings, but at the
5 same time, I didn't like what he was showing me.

6 Q Did -- at any time did you hear of the Muhammad Drawing
7 Contest that was going to take place in Garland, Texas?

8 A Never. Never.

9 Q Ibrahim never mentioned it to you?

10 A He never said nothing to me.

11 Q When was the first time you heard of that contest?

12 A The first time I heard of it, I believe, was when Abdul
13 Malik came over to the house and let me know that Ibrahim,
14 like, possibly, possibly be dead.

15 And that would have been -- I believe it was a Sunday
16 night. I can't say exactly what like time of the month was
17 it -- I think it was May. I'm not sure. But all I know is I
18 know it was a Sunday.

19 And he came and he told me. And then we weren't
20 sure. We really weren't sure he was dead because we had
21 gotten news from his brother. His brother had called his
22 nephew and his nephew in turn called him and told him and he
23 came and told me.

24 And at the time I was kind of mad at Abdul Malik. I
25 wasn't speaking to him. So when he came to my house, my exact

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 words was -- well, my daughter came running in the house and
2 she's like I think Ibrahim is dead. I'm like what?

3 So she told me -- she goes I think Ibrahim is dead.
4 And I thought why would he say something like that to my
5 daughter. And I was like he better be dead for the sake of
6 the fact that I didn't want to talk to him.

7 So I came outside and I saw him. And he had this
8 look on his face like it didn't look good, you know, and I was
9 like what's going on? And so he told me. And then we learned
10 for sure the next day, Monday morning, that Ibrahim was
11 actually dead.

12 Q Okay. Let me back you up a little bit. On -- I'm going
13 to take you to May 1st and I will tell you that May 1st was a
14 Friday.

15 A Right.

16 Q Okay. And this is the Friday before the incident occurs
17 in Garland, Texas, and that occurs on May 3rd.

18 Did you go to the masjid on May 1st, on that Friday
19 for Jumu'ah?

20 A Okay. I went downtown and my plan was to eventually go to
21 the masjid and I had planned to go to the masjid downtown.

22 So I went downtown. And I can't remember why, but I
23 went to the courthouse. I remember going to the courthouse
24 but I can't remember why. And after I left the courthouse, I
25 tried to -- I proceeded to go up to 35th looking for the

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 masjid at 36th Avenue and McDowell but I couldn't find it.

2 So I was just like, well, I'm stuck. So I just turn
3 around, went to a restaurant, got something to eat, and then I
4 left and I got on a bus and that was that.

5 Q And went home?

6 A Yeah.

7 Q Okay. Did you see either Elton Simpson or Nadir Soofi
8 that evening of May 1st?

9 A I can't remember. I think I may have. I think I may
10 have, yeah.

11 Q Did they stop by your house?

12 A Yeah. They stopped by my house.

13 Q And what, if anything, did they give you?

14 A Okay. Nadir came to me. I was kind of surprised because
15 I think it was more like kids answered the door and they came
16 to me and they said Ibrahim and Nadir is here. And I was like
17 Nadir? Because Nadir never comes to my house. So I thought
18 it was kind of strange that he came with him.

19 Q What time was it approximately, if you remember?

20 A I want to say probably about maybe eight or nine o'clock
21 he came to my house.

22 Q Okay.

23 A He came to my house. Nadir gave me a bowl of soup.

24 He said: Are you hungry?

25 And I said: Yeah, why?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 He said: I got a bowl of soup here for you fresh off
2 the stove.

3 He had just made it.

4 And I said: Okay, thanks. I don't have to cook
5 tonight.

6 So I laughed and I took the bowl from him.

7 And Ibrahim turned around and said: I need you to
8 give to this Saabir for me.

9 And at the time I didn't know what it was, but he
10 gave me an envelope and then he gave me a key. And I didn't
11 look at the key, because if I had looked at the key, I would
12 have realized that it was actually his car key. But I didn't
13 pay nothing. I just grabbed it and said okay.

14 He said: Give it to him by Wednesday.

15 And I said: Okay, fine, and that was that.

16 He then he said to me about my daughter needing, I
17 believe, a female role model in my house, you know, as far as
18 a Muslim is concerned. And he said my son is a good Muslim.
19 And he stood there for like -- after that there was like
20 silence. Him and Nadir just stood there like for five
21 minutes, like -- it was almost like they wanted to say
22 something to me but they didn't say nothing. And they turned
23 around and they left and that was the last time I ever saw
24 them.

25 Q Did they tell you they were going out of town?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A They never said anything. They just said well --

2 Q Did you have an understanding of where they were going?

3 A They didn't say nothing. They just -- like I said, they
4 were tight lipped about it. They just turned around and got
5 in the car and left.

6 Q Okay. Do you recall what you did on the next day on May
7 2nd? Did you communicate with either Elton Simpson or Nadir
8 Soofi on May 2nd of 2015?

9 A No. I couldn't -- I don't remember contact -- I remember
10 sending -- I don't know exactly when, but I remember sending,
11 I believe, Nadir a text and thanking him for the soup.

12 He never texted me back, you know, and I thought that
13 was strange because he always -- he would always text me back
14 when he would text. It would take a long time but he would
15 text, you know. So he didn't text me back, so I thought,
16 okay, you know, no big deal.

17 Q So after seeing them the evening of May 1st, that's the
18 last time --

19 A The last time I ever saw them.

20 Q Last time you saw them. Last time you had any
21 communication with them?

22 A Yep.

23 Q Other than you may have sent a text to Nadir but you
24 didn't get anything back.

25 A No.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Now, you indicated that at some point on May --

2 Well, let me keep you on May 2nd. Did you see Abdul
3 Malik on May 2nd, do you know?

4 A I don't think so. I don't think so.

5 Q Okay. You indicated to us a moment ago that you were sort
6 of mad at him. And the next time you saw him, you thought,
7 was on May 3rd when he came to your house?

8 A Like I said, I can't remember dates.

9 Q Okay.

10 A My brain is old and I forget days real quick.

11 So I do remember talking to him and that was by
12 either phone or by text. And I'm not sure when because it's
13 kind -- it's foggy. Like I said, my brain is -- I have a lot
14 in it, so if it comes to dates, I forget.

15 Q Let's focus for a minute on you said there came a point in
16 time when Abdul Malik came to your house in the evening of May
17 3rd to talk to you about Simpson.

18 Do you recall saying that a few minutes ago?

19 A May 3rd?

20 THE COURT: The night of the -- the night -- when
21 they thought he might be dead.

22 THE WITNESS: Okay. Yeah, I remember that, yeah. I
23 remember that.

24 BY MR. MAYNARD:

25 Q Okay. Can you give me any idea of what time it was when

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 they came?

2 A Oh, okay. Now I remember that. It had to be about like
3 close to midnight.

4 Q Who, if anybody, was with Abdul Malik?

5 A Hakeem.

6 Q And who is Hakeem?

7 A He is Abdul Malik's nephew.

8 Q And is that somebody you know?

9 A Yeah.

10 Q You have known him for a while?

11 A Not for a long time. I have known him for a little bit.

12 Q When you mean "a little bit," two or three years?

13 A Well, actually, when -- no. I take that back. When I
14 think about it, when he came out, when I met him, he had only
15 been out here for a week, so I just -- so I barely met him.

16 Q Okay. What, if anything, did you do when Abdul Malik and
17 Hakeem came to your house around midnight that night. What
18 did you guys do, if anything?

19 A Well, we discussed going over to Ibrahim's house and
20 checking on him because we was -- like I said, we weren't sure
21 if he was him that they were saying that was in Texas or he
22 was at the house.

23 So we decided to drive by, you know, drive by his
24 apartment. And when we drove by the apartment, it was so many
25 cop cars out there it looked like Christmas. I mean, it was

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 that many lights. And then there was tape around the --
2 around the apartment complex, so we couldn't get in.

3 So Abdul Malik says: Do you think that --

4 I remember him saying: Do you think they're in
5 there?

6 And I remember saying to him: Are you crazy? All
7 them cops out there. They probably be dead by now.

8 Like that. So and then I think we had decided that
9 we might want to get out. And Malik was like no, no, no.
10 You're crazy. Don't do that. Don't do that. So we didn't
11 get out of the car. We just stayed in.

12 But we just -- we drove around, I believe, the side
13 of the apartment and we kind of looked over the wall. And so
14 we saw all these, you know, cops just swarming. So we turned
15 around and we left. And after we left there, we went to his
16 father's house and we woke his dad up.

17 Q Whose father?

18 A Simpson's father.

19 Q Okay.

20 A We woke his dad up -- we woke his dad and his mom up
21 actually. And we explained to him that we not sure, but we
22 think that Ibrahim may have been involved in, you know, in the
23 situation in Texas and may have gotten killed.

24 And so we went in the house. The dad he -- whatever
25 it was -- he used something on his TV set. He -- what you

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 call it? He TiVo'd or whatever it was. I don't know what it
2 was. But he ran like through a commercial or something and we
3 caught a glimpse of the car.

4 And I remember Abdul Malik saying: I got a bad
5 feeling that's Nadir's car.

6 And I was like: Well, nah, they made more. I was
7 trying to be the optimist. I was trying to say like nah,
8 maybe he's not dead. Let's not think like that.

9 So then after that we left and we went home. He
10 dropped me off. And I think in the morning I remember getting
11 on my phone because I has CNN on my phone. And they would put
12 the information out little by little by little.

13 You know, like the first they mentioned two guys in
14 Phoenix and then they finally mentioned their names. Then
15 they actually showed their pictures on the Internet. So I
16 knew for sure that, yeah, they're dead, you know, like that
17 and that's what happened.

18 Q Okay. At some point you now have this envelope and a key
19 that Elton Simpson has given you the last time you've seen
20 him.

21 A Right.

22 Q All right. Who do you give that envelope to?

23 A I gave it to Saabir.

24 Q Saabir who?

25 A Saabir Nurse.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q And how do you know Saabir Nurse?

2 A From the masjid. You know, I've known him for a few
3 years.

4 Q Do you know whether or not he was friends with Elton
5 Simpson?

6 A He was friends with him.

7 Q Okay. How do you know that?

8 A I don't know. Maybe because we all had sat down and ate
9 before and laughed and talked and, you know, they used to work
10 together at the same job.

11 Q Where do you understand that Elton Simpson and Saabir
12 Nurse worked together?

13 A What do you call -- a dental practice.

14 Q What did you do with the car key -- or the key you had?

15 A I gave it to Saabir like he asked me to.

16 Q Did you ever learn what was in the envelope that you gave
17 to Saabir Nurse?

18 A Saabir called me on the phone and he told me: You know
19 what was in that envelope?

20 I said: What?

21 He said, you know: It was his title to his car.

22 MS. BROOK: Objection. Hearsay.

23 THE COURT: The objection comes too late. The answer
24 will stand.

25 BY MR. MAYNARD:

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Do you know whether there was anything else other than the
2 title to his car in that envelope?

3 MS. BROOK: Objection. Hearsay.

4 THE COURT: Sustained.

5 THE WITNESS: No. That was it.

6 THE COURT: No. No. You don't have to say.

7 MR. MAYNARD: It was a good shot.

8 BY MR. MAYNARD:

9 Q I'm going to back you up a little bit prior to this
10 incident that we've just been talking about that occurs
11 concerning Garland, Texas.

12 Are you absolutely sure that you had never heard of
13 the Garland, Texas Muhammad Drawing Contest prior to learning
14 that Mr. Simpson may have been there?

15 A I am positive.

16 Q When is the last time that you recall you and Mr. Simpson
17 and Abdul Malik went out to dinner?

18 A I'm thinking.

19 Q Okay. Let me ask you: Do you ever remember --

20 A Oh.

21 Q Well let me ask you a question.

22 THE COURT: Well, he's going to answer your question.
23 You already asked him.

24 THE WITNESS: I just thought about it. It took me a
25 while. I told you my brain is slow.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 The last time -- we didn't actually -- I wouldn't
2 call it dinner but I would call it lunch. It was the daytime
3 and we went to an Afghani restaurant and we had lunch there.
4 That was the last time we went out together.

5 BY MR. MAYNARD:

6 Q Okay. In relationship to the last time that you had seen
7 Simpson, was it a day before, a week before, a month before,
8 or can you give me any idea of how long it was?

9 A I don't think I saw him -- if I remember correctly, I
10 think it was that Friday he came to my house. And that was
11 the day he must of apparently dropped those papers off with my
12 son but I didn't know about it because my son didn't tell me
13 about those papers.

14 So he came to my house. And my kids let me know that
15 he was there. And I thought that -- that was why I was
16 downtown. I was talking to him on the phone.

17 So anyway, he came to my house and my kids told me he
18 was there. And then I called back and he said he was still
19 there and I got angry. And I was, like, that's my rule. No
20 adults in my house when my kids are in the house. I don't
21 play that, unless I'm there, you know.

22 So I remember talking to him. I think I talked to
23 him -- I think I talked to him on the phone or I texted him
24 and I told him, you know, please don't --

25 MS. BROOK: Objection.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 THE WITNESS: -- please don't come to my house when
2 I'm not home. And that apparently had to be the same day that
3 he gave my son those papers because those -- whatever they
4 were.

5 MS. BROOK: Your Honor, objection. Nonresponsive.

6 THE COURT: Let's ask a new question, Mr. Maynard.

7 MR. MAYNARD: Okay.

8 BY MR. MAYNARD:

9 Q All right. Was there a time when you and Mr. Simpson and
10 Abdul Malik went to a T-Mobile phone store?

11 A Yeah.

12 Q When was that?

13 A There you go with dates.

14 Q Okay.

15 A I can't remember. I just remember the event.

16 Q In relationship to when Simpson died, obviously, it was
17 before he died.

18 A Right.

19 Q Okay. Can you give me some idea? Was it a week or two
20 weeks or what do you remember, if anything, about that?

21 A It might have been a few weeks before that. I'm pretty
22 sure.

23 Q Let's talk about that night, whenever it happened to be,
24 did you and Simpson and Abdul Malik go out for dinner?

25 A I think we did. I'm not sure. I think we did.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q All right. Do you remember going to a T-Mobile store?

2 A Yeah.

3 Q Where was the T-Mobile store located?

4 A I believe it was off of 7th Avenue and Camelback.

5 Q Did you have an understanding of why you were going to the
6 T-Mobile store?

7 A It had something to do with Abdul Malik's phone is all I
8 remember.

9 Q Did you go into the T-Mobile store or did you stay in the
10 car?

11 A I stayed in the car.

12 Q Okay. What about Simpson? Did he stay in the car?

13 A He stayed in the car too.

14 Q He stayed in.

15 Had you guys gone to get food prior to going to the
16 T-Mobile store?

17 A I believe so.

18 Q Do you recall where you went to get food?

19 A No, I don't. I do remember -- I believe we went out to
20 eat.

21 Q Okay. Do you recall whether or not you had gotten
22 take-out and you had it with you or whether you had eaten at
23 the restaurant?

24 A No. I know we ate at the restaurant. I remember that.

25 Q Now, was there anything that was unusual that happened at

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 the T-Mobile store that you recall?

2 A The only thing I remember was Abdul Malik, I think, was
3 going into the store and some lady backed up into him and she
4 hit him with the car. She -- I heard a bump. I heard a
5 thump. And I heard him go, "Hey, you hit me with your car,"
6 and that was the only thing that happened.

7 Q Can you tell us after that happened -- did you actually
8 see it happen or did you hear it?

9 A I heard it. I could hear it. Thump. I didn't see it,
10 but I heard the thump from being hit by the car.

11 Q Did you hear Abdul Malik say anything?

12 A Uh-huh.

13 Q What did you hear him say?

14 MS. BROOK: Objection. Hearsay.

15 THE WITNESS: I heard him say, "Hey, you hit me with
16 the car."

17 THE COURT: Overruled. The answer will stand.

18 BY MR. MAYNARD:

19 Q What, if anything, happened next?

20 A I think I remember him giving the -- talking to the lady.
21 I think he got a card from her for her insurance. And she was
22 asking him was he okay and he's like yeah. And that was that.

23 It happened so fast he just -- she give him a card.
24 He got in the car and we drove away.

25 Q Okay. Now, I'm going to take you back to you've learned

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 now that Elton Simpson has died. You go to the funeral?

2 A Yeah.

3 Q Did you ever meet with FBI agents after the Garland
4 incident?

5 A Yeah.

6 Q And tell us when the first time was in relation -- I know
7 you don't know dates, but in relationship to when Elton
8 Simpson died, was it a day or two later or a week?

9 A I think it might have been like a --

10 Q I'm sorry?

11 A Maybe a week or two weeks after he died.

12 Q Okay. Where did that meeting take place?

13 A In my house.

14 Q Who -- how many agents were there?

15 A Two.

16 Q How long did they stay?

17 A About two hours.

18 Q Was anybody else there other than you and the two agents?

19 A My kids.

20 Q Okay. Did you meet with the agents again after that
21 meeting?

22 A No. I mean, I can say yes and no.

23 And what I mean by that is they -- they did come back
24 to my house that second time they came back. But they came
25 back uninvited the second time. So -- but as far as meeting

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 with them, no, I didn't meet with them.

2 Q Did you know at the time that you were meeting with the
3 FBI in your house that they were taping your conversation?

4 A I had no idea.

5 Q They didn't ask you whether they could?

6 A No.

7 Q At some point did the FBI issue a search warrant on your
8 house?

9 A This is the second time they came back uninvited, yeah.

10 Q Tell the jury what happened on that particular day.

11 MS. BROOK: Objection. Hearsay. Relevance.

12 THE COURT: Overruled. You may answer.

13 THE WITNESS: Thank you.

14 I was sitting in my house and I was on the phone. I
15 was talking to a friend of mine and I was watching TV. And I
16 heard a bang at my door. And I was like --

17 And I heard a faint voice say "FBI open up." And I
18 thought am I dreaming? You know. That can't possibly be who
19 I think it is.

20 So I opened the door. And before I could get a
21 chance to open the door, he was screaming. And he was
22 screaming "FBI open the door" and he had some kind of metal
23 club with some sort of device and he was hitting -- I mean he
24 was hitting my door, hitting it hard.

25 And I was like, yeah, I'll try to come out if you

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 stop hitting my door. And he apparently didn't want to hear
2 that. And so I said -- I said to him, I said, yo, please stop
3 hitting my door before you break my lock.

4 Right after I said that, he hit it two more times.
5 And the second time the lock just flew clean off the door. I
6 mean just "wheew" off the door.

7 And so my daughter was coming out the house and she
8 was coming with me. And I was kind of like shielding her
9 because they had their guns pointed at our heads. So, you
10 know, I don't know, I'm thinking I don't know. It could
11 accidentally go off. This is not funny.

12 But I said they could -- it could actually, you know,
13 go off and shoot us or something. And I said, "Be careful." I
14 said, "Please, don't point your guns at my daughter's head.
15 She's only 16 years old."

16 And the guy, you know, what he did? He took the gun
17 and he said --

18 MS. BROOK: Objection, Your Honor. Hearsay.

19 THE WITNESS: -- then she's gonna come out then and
20 he pointed it at her head.

21 THE COURT: Excuse me. Not what he said but what he
22 did.

23 BY MR. MAYNARD:

24 Q You can't tell us what he said, but you can tell us what
25 he did.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Okay. Well, he pointed the gun further -- you know,
2 closer to her head.

3 Q Okay.

4 A And we came outside and we sat for about two hours in the
5 heat while they ransacked my house. Then the only thing that
6 they found was a paper. And they acted like it was a smoking
7 gun or a dead body or something the way they were treating it.

8 But they came out and they were like -- they go:
9 What is this? And I'm looking like I don't know. And so he
10 said --

11 Q You can't tell us what he said.

12 A Okay. Okay. Well, he showed me a paper. And it was a
13 paper, apparently, from what I understand because I didn't
14 even know my son had it.

15 Ibrahim had given it to my son and it was a paper
16 about extremist scholars on this paper.

17 And so, you know, I let him know, hey, I didn't know
18 it was even in the house. And so he was like, well, this is
19 what we found and this is kind of a big deal. And, you know,
20 he was just going on and on and on about this is not good
21 stuff.

22 And he started telling me about how bad and how wrong
23 it is to have something like this. I'm was telling him I
24 didn't know my son had it. I had no clue.

25 Q And did they -- other than that piece of paper, did the

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 FBI take anything else out of your house?

2 A Oh, glad you said that.

3 They found -- what do they call that thing? A
4 tactical rail. And he were tripping off of that. And I
5 looked at it when I saw it and I said to myself --

6 MS. BROOK: Objection, Your Honor.

7 THE COURT: Tell us again what it was. A tactical
8 what?

9 THE WITNESS: A tactical rail, a part of a gun.

10 THE COURT: Oh.

11 THE WITNESS: So I didn't even know what it was. He
12 said -- I said it looks like a toy to me. And so he goes,
13 well, we found this, he said, do you know what this is? He
14 said it's a tactical rail.

15 And I said: What's that?

16 And he said: It's part of a gun.

17 I said well, I've never seen it before in my life. I
18 said it looks like a toy and it did. So he took that and he
19 put it in his evidence. And two days later my son came home
20 and my son and me talked about it and I asked my son about the
21 tack --

22 MS. BROOK: Objection. Hearsay.

23 THE COURT: I think we're getting to a narrative and
24 where we need a new question because we've now moved beyond
25 the search.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 MR. MAYNARD: Sure.

2 BY MR. MAYNARD:

3 Q Did they take any electronic equipment that you had?

4 A They took all my cell phones. They took all my computers,
5 which was only two, but they took them, and that was that.

6 Q Did you have any guns in the house at the time?

7 A No.

8 Q Did your son have any guns in the house?

9 A No.

10 Q The thing -- the tactical you have been talking about, was
11 that a gun?

12 A The tactical rail actually came from an aerosol gun. I
13 don't know why these ding-dongs could not figure out that it
14 was part of a -- of basically a toy. Because my son said to
15 me --

16 Q No. You can't tell us what your son said.

17 A Yeah. Right. All right. Anyway --

18 Q At some point did you get back your electronic equipment?

19 A A week later.

20 Q Okay. And where did you -- how did you get it back?

21 A I had to go down to the FBI to pick it up.

22 Q And did you talk to the FBI again at that time?

23 A I think I did. I can't really remember what we said but I
24 think I did talk to them.

25 Q Do you remember how long you were there before you picked

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 up the --

2 A I know we did for a while because they took my son in the
3 back room and they were talking to him, grilling him over
4 basically, but they were talking to my son. And I think about
5 an hour.

6 Q Okay. Anybody tell you that they were taping you at the
7 time?

8 A No.

9 Q All right. Did you know Ali Soofi?

10 A Yeah. I knew him. Barely, but I knew him.

11 Q How did you know -- when did you first meet Ali Soofi?

12 A I met Ali Soofi -- for the first time I met him when I was
13 in Walmart and I was standing outside with my groceries. And
14 Nadir was in his car and he drove up with Ali Soofi.

15 And he asked me: Hey, what you doing?

16 I said: I'm just shopping.

17 He goes: Well, how you getting home?

18 And I said: Well, I'm waiting for a cab.

19 And he said: No, don't do that. I'll just take you.

20 And so when he put me in the car and put me and the
21 groceries in the car, Ali happened to be in the car as well.
22 That was the first time I ever seen Ali. And we drove home.
23 He dropped my groceries off at the door and he left.

24 Q Did Ali come into your house that time?

25 A No.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Can you give us -- I know you don't know dates, can you
2 give me some idea of when that occurred prior to Ibrahim's
3 death? Would it have been a week, months, or do you have any
4 recollection?

5 A Probably a couple months.

6 Q Okay. Now, after this event occurred in Garland, Texas,
7 did you have any conversations with Ali Soofi on the phone?

8 A Yeah. Afterwards.

9 Q Okay. Had you ever had a conversation with Ali Soofi on
10 the phone prior to the Garland incident?

11 A No.

12 Q How many conversations, if you recall, did you have with
13 Ali Soofi after the Garland incident?

14 A I think about three.

15 Q How is it that -- do you know -- did you call him or did
16 he call you?

17 A I called him because I was worried about him.

18 Q Why were you worried about him?

19 A I think I was worried about him because I had a feeling
20 that the FBI would start bothering him and nagging him because
21 I thought he was Nadir's brother.

22 And so we talked. And I was under the impression
23 that I was trying to help him and explain --

24 Oh. I think he -- no, wait. I think he might have
25 called me.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 But anyway, when we talked, he was basically like,
2 you know, these --

3 MS. BROOK: Objection. Hearsay.

4 MR. MAYNARD: You can't tell us what he said.

5 THE WITNESS: Okay. This is kind of hard.

6 BY MR. MAYNARD:

7 Q But you did have telephone conversations with him?

8 A Yeah.

9 Q Did you tell him to cooperate or not to cooperate with the
10 FBI?

11 A Well, as far as when you say "cooperate," because I know
12 how the FBI thinks, they think when you say "cooperate," they
13 want you to talk to them.

14 And I told him not to talk to them because I thought
15 it was in his best interests. And I said you don't know
16 anything. I knew he didn't know anything because he wasn't
17 there.

18 So I just basically told him that you shouldn't talk
19 to them. Because if you do talk to them, I said, all they
20 going to do is start badgering you and asking you questions
21 inside of questions, all sorts of ways, it's just going to be
22 annoying. I said so your best bet is just to be quiet and not
23 say nothing to them.

24 MR. MAYNARD: Okay. Just a minute, Your Honor.

25 I don't have any further questions.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 THE COURT: Ms. Brook.

2 MS. BROOK: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MS. BROOK:

5 Q Good morning.

6 A Good morning.

7 Q Sir, you have been Muslim for how many years?

8 A Twenty-one, I believe.

9 Q Twenty-one?

10 A Uh-huh.

11 Q And while you have been living in Phoenix over the past
12 few years at least, which mosque do you go to?

13 A Actually, I have changed. I go to 23rd Avenue and
14 Thunderbird.

15 Q 23rd Avenue and Thunderbird?

16 A Uh-huh.

17 Q And that's the mosque you go to?

18 A Uh-huh.

19 Q And you're a practicing Muslim?

20 A Uh-huh.

21 Q And so Jumu'ah on Friday is important?

22 A Well, yeah, pretty much.

23 Q And by "important," that means you go to Jumu'ah on Friday
24 in order to pray as part of your practice?

25 A Yeah.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q You would agree with me that at least over the last couple
2 of years Malik has been closer to Ibrahim than you have been?

3 A Probably, yeah.

4 Q And you have only been over to Ibrahim and Nadir's house
5 once in the apartment that they lived in together there on
6 19th Avenue?

7 A No. Actually, when I think about it, it has been twice.
8 Not once, twice. One time I went there. And the second time
9 I went there for like maybe, I think, like 20 minutes.
10 Something like that.

11 Q And the other time?

12 A About 20 minutes.

13 Q Was what?

14 A Twenty minutes.

15 Q Twenty minutes. So once 20 minutes and the other time how
16 long?

17 A For a couple hours.

18 Q You remember talking to FBI in their investigation in this
19 particular case and you talked to them on a number of
20 different occasions, right?

21 A Uh-huh.

22 Q And you talked to Special Agent Robert Byrne?

23 A Uh-huh.

24 Q Correct?

25 A Uh-huh.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 THE COURT: Is that "yes"?

2 THE WITNESS: Yes. I'm sorry.

3 THE COURT: Thank you.

4 BY MS. BROOK:

5 Q Do you remember when he first asked you how many times you
6 had been to Simpson and Soofi's house and you said "never"?

7 A Now that I think about it, that may have been a mistake,
8 it may have been an error. And I just was irritated with them
9 at the time. I was just like, yeah, never.

10 And I thought about it after -- after they left. I
11 was like, no, I think I might have made a mistake, so.

12 Q And, in fact, that first time you said, oh, well maybe one
13 time four months before the attack that you had gone to
14 Simpson and Soofi's house, correct?

15 A Say that again?

16 Q So after you initially said "never," then you said "I had
17 been there one time to Simpson and Soofi's house four months
18 before the attack," correct?

19 A I'm not sure. I can't remember.

20 Q Does that sound accurate?

21 A I said I'm not sure. I can't remember, so.

22 THE COURT: Well, is it -- whether you told them that
23 or not, is that your best recollection today that the time
24 that you --

25 THE WITNESS: That's the thing. I can't remember.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 So I don't want to say "yes" and I don't want to say "no" if I
2 can't remember. I don't remember.

3 BY MS. BROOK:

4 Q And your memory today is that you were over at their
5 apartment two times?

6 A I'm pretty sure it was two times. I can't say how many --
7 I can't say when exactly, but I can say it was probably been
8 about two times.

9 Q Ibrahim, too, would rarely come over to visit and spend
10 time at your house, correct?

11 A Right.

12 Q And mostly when he did come over to your house, you would
13 talk to him outside?

14 A No. He used to sit in my living room and talk to me.

15 Q Is that something that happened often?

16 A Yeah. I guess you could say sometimes. Sometimes.
17 Sometimes outside. Sometimes inside.

18 Q And when you would sit in your living room, he would sit
19 there with your kids as well, right?

20 A No. He would not sit there with my kids as well.

21 Q So your kids were never in the same room when you would
22 sit there with Ibrahim and talk?

23 A Well, I mean, common sense --

24 Q Just "yes" or "no."

25 Were your kids ever in the same room when you would

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 sit there with Ibrahim and talk in your house?

2 A Well, if he's walking -- if they were walking through,
3 yeah, they would be in the same room but they wouldn't just be
4 hanging around just to hang around because we were adults.
5 They stayed out. So, no.

6 Q On the Friday before the attack, you testified that
7 Simpson came over to your house that evening. Was it about
8 nine o'clock?

9 A Yeah.

10 Q And you were upset that he had come over that night,
11 right?

12 A Yeah. I was a little upset, yeah.

13 Q You were also upset at Jazmin, your daughter, for letting
14 him know -- letting her know that you were home when he came
15 over that night?

16 A Yeah.

17 Q And you took him outside to talk, correct?

18 A Yeah. Well, him and I were outside my house, so I came
19 out -- I came outside and I stood there by the door and talked
20 to him.

21 Q Earlier that day you testified that you went downtown to
22 come to the courthouse, correct?

23 A Uh-huh.

24 THE COURT: Yes?

25 THE WITNESS: Yes.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 BY MS. BROOK:

2 Q And you, in fact, did come to the courthouse, correct?

3 A Yeah. I went to the courthouse, yeah.

4 Q So was there a purpose for you being at the courthouse
5 that day?

6 A I can't remember why I went to the courthouse. I just
7 know I went to the courthouse. I can't remember what reason I
8 went there but I remember going there.

9 Q So you had to get a bus, correct, because you don't drive
10 yourself?

11 A Well, I drive now, but at the time I didn't have a car.

12 Q Okay. So back then you had to take a bus and come down to
13 the courthouse that morning?

14 A Right.

15 Q And how often do you come down to the courthouse?

16 A I don't know.

17 Q So you had to pick a bus route and figure out your route
18 downtown to get here to the courthouse, correct?

19 A Yeah.

20 Q And you did come down?

21 A Uh-huh.

22 Q And that day you testified that you did not go to Jumu'ah
23 at your mosque that you usually always go to Jumu'ah at,
24 correct?

25 A Right.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Instead, you looked for a different mosque that day?

2 A I looked for a different mosque that day because I was
3 downtown and I was running out of time. So I was looking for
4 a different mosque to go to so I could go pray and that was
5 that.

6 Q So you were downtown for something at the courthouse that
7 you can't remember. And then you decided to look for a mosque
8 that you have not ever gone to before to attend that day?

9 A Correct that. I have gone to the mosque before. I just
10 forgot where it was.

11 Q So you didn't make it to that different mosque on that
12 Friday?

13 A I did not.

14 Q You have heard because defense counsel has asked you about
15 a list that was given to your son on that Friday by Ibrahim,
16 correct?

17 A Right.

18 Q And is it your testimony here today that you weren't at
19 the house that day when the list was given to your son?

20 A No. Say it again?

21 Q Is it your testimony that you were not there at your house
22 that day when Ibrahim wrote out and gave a list to your son?

23 A Right. No, I wasn't there then.

24 Q On that Friday, so the Friday before the attack, Ibrahim
25 texted you two times that day, correct?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A I believe so.

2 Q And you, after Ibrahim was killed, deleted those text
3 messages, correct?

4 A Right.

5 Q In fact, you went through and deleted your entire contact
6 history with Ibrahim after you found out he was killed,
7 correct?

8 A Right. Right.

9 Q And you met with the FBI on May 6th, correct?

10 A I don't remember what day, so like I said, when you start
11 talking about dates, I don't remember. I just remember I met
12 with them.

13 Q If you can take a look at the first sentence on the
14 overhead on that screen right there in front of you and see if
15 that doesn't refresh your recollection about the day that you
16 talked to the FBI first.

17 A What am I looking for again?

18 Q The date.

19 A Okay. Then apparently I must have.

20 Q Okay. So you would agree with me that it was on May
21 6th -- I'm sorry -- yes, on May 6th of 2015 that you sat down
22 and talked to the FBI the first time?

23 A Yeah.

24 Q And on that day you told the FBI that immediately after
25 you learned Ibrahim was killed, you deleted your entire

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 contact history and all of your text messages with him,
2 correct?

3 A Uh-huh. Yes.

4 Q Sir, do you know your phone number offhand?

5 A Yeah.

6 Q What is it?

7 A 480-479-5114.

8 Q Back in May, so on May 3rd of 2015, was your phone number,
9 in fact, 480-432-1637?

10 A Yeah.

11 Q And let me take a second, because back in May, your last
12 name was Hyman, correct?

13 A No. It was not.

14 Q You were referred to as Abdul Khabir Hyman, correct?

15 A Right.

16 Q Okay. And now you changed your name and you're going by
17 "Waseem"; is that correct?

18 A No. Wahid. I changed my name back in 2013.

19 Q But only recently decided to change how you introduce
20 yourself or how people greet you?

21 A That's not true. That's not true. No. They apparently
22 had my name as Hyman, so I let them call me Hyman. Simple as
23 that.

24 THE COURT: Wait. Who is the "they" you are
25 referring to?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 THE WITNESS: The FBI.

2 THE COURT: The FBI. Okay. Thank you.

3 BY MS. BROOK:

4 Q And your friends call you "AK," correct?

5 A Yeah.

6 Q So when the FBI asked you your name and you said to them
7 my name is Abdul Khabir Hyman -- well, you would agree with me
8 that's what you introduced yourself as?

9 A No, he didn't ask me my name. He didn't ask me: Is my
10 name Abdul Khabir Hyman. I don't believe he did.

11 Q You don't believe he did?

12 A He did not.

13 Q Let's talk about May 3rd. Putting on the overhead what's
14 already been admitted as Government's Exhibit No. 479, which
15 are the call -- or I'm sorry -- the text history messages from
16 Abdul Malik Abdul Kareem's phone.

17 And I want to focus in on these two messages. So
18 we're going to start off here. So you would agree with me
19 back then that your phone number was 480-432-1637, correct?

20 A I believe so, yeah.

21 Q And you received a text message at 9:45 p.m. Arizona time
22 from Malik stating:

23 "Salaam walaikum unblock my number."

24 Correct?

25 A Salaam walaikum.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Salaam walaikum unblock my number.

2 A Uh-huh.

3 Q Followed by the next text message there at 9:45 p.m.
4 saying:

5 "Very important I want to talk to you about
6 something."

7 A Uh-huh.

8 Q Correct? You agree with me those are the two text
9 messages you received from the defendant at 9:45 there on
10 Sunday evening, May 3rd?

11 A I assume so. I don't remember, but I assume so.

12 Q Looking at it, does it jog your memory?

13 A I think so. I'm not sure.

14 Q And let's walk it through a little bit.

15 So "unblock my number." At that point in time you
16 had Malik's number blocked on your phone so that you couldn't
17 receive messages?

18 A I don't think so. I think he just thought it was blocked.

19 Q Sorry?

20 A I don't think so. I think he just thought it was blocked.

21 Q Okay. So you purposefully hadn't blocked his number from
22 your phone?

23 A Say that again?

24 Q You purposefully had not blocked his phone number on your
25 phone?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Yeah. I believe so.

2 Q You think you had?

3 A No. I'm saying he probably thought it was blocked
4 probably because I wasn't answering him.

5 Q Okay. Because he called you.

6 A Maybe. I don't know.

7 Q Well, then why would you think that he had -- thought that
8 you blocked his number?

9 A Because it's right here.

10 Q So you think you missed phone calls from him that predated
11 that particular text message?

12 A Say that again?

13 Q You think you missed some phone calls from him before that
14 text message came in?

15 A I don't know. I guess. I assume so.

16 Q You testified earlier that when Malik showed up at your
17 door, you then went to Ibrahim and Nadir's apartment before
18 going to his father's house, correct?

19 A Right.

20 Q Now, you have sat down on multiple occasions and talked to
21 the FBI, correct?

22 A Right.

23 Q And in May and June when you sat down and talked to the
24 FBI, you told them that you went directly to Ibrahim's dad's
25 house to talk to him about Ibrahim being dead?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A I don't think I told them that. I think I told them I
2 went to the apartment first and then we went to his dad's
3 house.

4 Q Okay. So you're saying you did not tell the FBI that in
5 your May and June interview?

6 A I'm not sure. I'm saying -- I believe that I could have
7 sworn I told them that we went to Ibrahim's apartment. Then
8 we left over to his dad's house.

9 Q Okay. And you know that those interviews were all
10 recorded, correct?

11 A What interviews?

12 Q The interviews you had with the FBI --

13 A I'm aware now that they were, yeah.

14 Q On May 6th and June 10th?

15 A Uh-huh.

16 Q Okay. Defense counsel asked you --

17 THE COURT: Excuse me, Ms. Brook. We're going to
18 take our morning break.

19 Ladies and gentlemen, we'll reconvene at 10:35.

20 You are reminded of the admonition not to discuss the
21 case or form any conclusions about it until you have heard all
22 the evidence and begun your deliberations.

23 Court is in recess until 10:35.

24 (Recess taken at 10:17 a.m.; resumed at 10:34 a.m.)

25 THE COURT: Thank you, ladies and gentlemen. Please

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 sit down.

2 The record will show the presence of the jury,
3 counsel, and the defendant. Ms. Brook, you may continue your
4 cross-examination.

5 MS. BROOK: Thank you, Your Honor.

6 **CROSS EXAMINATION (cont'd)**

7 BY MS. BROOK:

8 Q Thank you, Your Honor.

9 Putting back on the overhead 479, the text records
10 that we have been looking at from the defendant's phone.

11 You received Ali Soofi's phone number from Malik,
12 correct?

13 A Say it again?

14 Q You received Ali Soofi's phone number from Malik, correct?

15 THE COURT: Why don't you put your finger on the one
16 you want him to look at.

17 MS. BROOK: Sure.

18 BY MS. BROOK:

19 Q So looking here, your phone number, your name, on May 4th
20 of 2015 at 3:31 p.m., you received Ali's phone number,
21 602-446-9730, correct?

22 A Okay. Yes. Yeah.

23 Q And Malik texted that to you?

24 A Uh-huh.

25 Q And you can see that just before here, about 25 minutes

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 earlier, you had texted Malik to say:

2 Would you just send me the dang number already.

3 Correct?

4 A Yeah. I guess. Yeah.

5 Q You had told Malik that --

6 THE COURT: Excuse me. Did you answer?

7 THE WITNESS: Yes.

8 THE COURT: Thank you.

9 BY MS. BROOK:

10 Q You had told Malik that you would call Ali Soofi and tell
11 him not to talk to the FBI, correct?

12 A Say that again?

13 Q You had told Malik that you would call Ali Soofi and tell
14 him not to talk to the FBI, correct?

15 A I may have. I don't know. I don't remember.

16 Q It sounds like something you would have said to Malik?

17 A Probably.

18 Q And, in fact, you did call and tell Ali Soofi to not talk
19 to the FBI?

20 A Right.

21 Q And as you testified here earlier on direct, you knew that
22 Ali Soofi himself had nothing to hide from the FBI, correct?

23 A Yeah.

24 Q But yet you still called and told him not to talk to the
25 FBI, correct? Just "yes" or "no."

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A I can't answer that "yes" or "no."

2 Q You did, in fact, though call him to tell him not to talk
3 to the FBI?

4 A I guess I'd say no.

5 Q Say that again?

6 A I said I'd say no. I did tell him don't talk to the FBI.

7 Q Okay. Because you did tell Ali Soofi not to talk to the
8 FBI?

9 A Right. But not because he didn't have anything to hide,
10 because he didn't have anything to hide.

11 Q Just answer the question. You called and told him not to
12 talk to the FBI?

13 A Right. Yeah.

14 Q When defense counsel asked you questions about Ali Soofi
15 earlier on direct, you looked a little perturbed, a little
16 frustrated. Is that because you've come to learn that those
17 conversations that you had with Ali Soofi were, in fact,
18 recorded conversations?

19 A Yeah, pretty much, yeah.

20 Q And that would include those conversations where you told
21 Ali Soofi to not talk to FBI, right?

22 A Right. Right.

23 Q Defense counsel asked you about a time where you drove
24 with Malik to a parking lot and he purchased a gun?

25 A Uh-huh.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q And you remembered that you were in the car, correct?

2 A Right.

3 Q And Ibrahim was in the car with you too, correct?

4 A Right.

5 Q Was that in December of 2014? December before the attack?

6 A I don't remember the date. I'm not going to lie to you.

7 I don't remember the date. I just know it was at night.

8 Q Defense counsel asked you about some videos that Ibrahim
9 showed you, in particular, one with a man who was burned alive
10 in a cage?

11 A Yeah.

12 Q And what did Ibrahim show that video to you on?

13 A His phone.

14 Q And where were you when Ibrahim showed you that video?

15 A In my house.

16 Q And was Nurse there?

17 A No.

18 Q Was Malik there?

19 A Nope.

20 Q You mentioned another video that Ibrahim showed you, one
21 where a man was being beheaded.

22 A Right.

23 Q Is that "yes"?

24 A Yes.

25 Q What did he show you that video on?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A His phone.

2 Q And where were you when he showed you the video of the man
3 being beheaded on his phone?

4 A In my house.

5 Q And was Nurse there?

6 A No.

7 Q Was Malik there?

8 A Nope.

9 Q You mentioned a third video as well that Ibrahim showed
10 you. What did he show you that video on?

11 A That video was the one where the guy was being thrown from
12 a building.

13 Q What did he show you that on?

14 A Oh. On his phone.

15 Q His phone as well?

16 A Uh-huh.

17 Q And, again, where were you when he showed you that video
18 on his phone?

19 A In my house.

20 Q Who was there?

21 A My kids were there, but they weren't in the room with us.

22 Q Anybody else?

23 A Nope.

24 Q Did he show you these three videos all on the same day or
25 different days?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Different days.

2 Q You testified earlier that in the months before the attack
3 Ibrahim had told you about his plan to attack a U.S. Marine
4 base.

5 A Uh-huh.

6 Q Is that "yes"?

7 A Yes. Sorry.

8 Q Malik also told you about Simpson's plan to attack a
9 Marine base.

10 A I think so. I'm not sure. I think he did.

11 Q Yes?

12 A Yes.

13 Q And, in fact, Malik told you that Simpson and Soofi
14 together were going to attack a Marine base; is that true?

15 A I believe so, yeah.

16 Q And Malik went on to tell you that Simpson and Soofi must
17 want to die.

18 A I'm not sure. I think so, but I'm not sure.

19 Q Does it sound like what you recall him saying?

20 A I think so.

21 Q And in that conversation you didn't tell him that you had
22 heard from Ibrahim about that plan too?

23 A Say that again?

24 Q You didn't tell Malik that you had heard about that plan
25 from Ibrahim?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A I think I may have mentioned it to him.

2 Q Now, you didn't tell Malik about what Ibrahim had told you
3 about the plan to attack the U.S. Marine base?

4 A As I said, I think we discussed it. I'm almost sure we
5 may have talked about it, yeah.

6 Q Malik told you that Ibrahim and Nadir had this plan before
7 the Garland attack, correct?

8 A I believe so.

9 Q Is that a "yes"?

10 A Yes.

11 Q Defense counsel asked you some questions about a search
12 warrant that was conducted on your house on June 10th of 2015.

13 A Uh-huh.

14 Q Yes?

15 A Yes.

16 Q You, yourself, don't keep a Twitter account?

17 A No.

18 Q And you yourself don't have a Facebook account?

19 A I have a Facebook. As of now I have a Facebook, yeah.

20 Q You now have a Facebook account but back then you did not?

21 A Uh-huh.

22 Q Is that true?

23 A Say that again?

24 Q So back when the search warrant was conducted back in
25 June, you did not have a Facebook account?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Yeah, I had a Facebook account.

2 Q So your testimony now is that now you have a Facebook
3 account?

4 A Yeah.

5 Q Or that you all along have had a Facebook account?

6 A I have a Facebook account.

7 Q Is that an account you use?

8 A Yeah. Sometimes I go on it.

9 Q I'm sorry. I couldn't hear you.

10 A I said sometimes I go on it.

11 Q Sometimes you go on it?

12 A Yeah.

13 Q And how often do you think that would be?

14 A I don't know. I go on it, like, I mean, I do more looking
15 at it than I actually go on it. Like, I might go just to read
16 what people say and I might be on it two or three times a day.

17 Q So you yourself don't post things on your Facebook
18 account?

19 A Yeah. I don't really post. I kind of, like, other things
20 that people say, I kind of like share that but I don't post.

21 Q You knew that Malik, Simpson, and Soofi went shooting
22 together in the desert, correct?

23 A I believe so, I think, yeah.

24 Q Yes, you knew that?

25 A Uh-huh.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q To go back for a moment, I asked you about the time that
2 Malik told you that Simpson and Soofi were planning to attack
3 a Marine base.

4 A Uh-huh.

5 Q You testified that, in fact, he had told you that?

6 A Yeah. I believe so, yeah.

7 Q And, obviously, that happened -- that conversation
8 happened where Malik told you that before the Garland attack?

9 A Yeah.

10 Q Defense counsel asked you about going to dinner or out to
11 a meal at some point that day after going to the T-Mobile
12 store with Malik and Ibrahim in April.

13 THE COURT: Actually, I think he said it the other
14 way around. That they went out to eat. Afterwards, they went
15 to the T-Mobile.

16 THE WITNESS: Right.

17 BY MS. BROOK:

18 Q So you went out to eat first?

19 A Right.

20 Q And when you went out to eat, did you go to the Khyber
21 Halal Restaurant?

22 A The who?

23 Q The Khyber Halal Restaurant?

24 A I can't remember the name of the restaurant, so when you
25 say names and dates, I don't remember.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 THE COURT: That's the Afghani restaurant or it is an
2 Afghani restaurant.

3 THE WITNESS: See, I think we went to an Afghani
4 restaurant, but I don't think we went to the one we usually go
5 to. And when she mentions the name, I don't know. I would
6 just be going, so I don't know what the name of the place is.

7 MS. BROOK: Hang on just one second.

8 BY MS. BROOK:

9 Q Putting on the overhead a photo which has already been
10 admitted. It's Exhibit No. 474.

11 A Okay. I recognize that restaurant.

12 Q Is that the Khyber Halal Restaurant?

13 A I can't say the name of it because I don't know the name
14 of it.

15 THE COURT: Okay. Could I ask you to speak into the
16 microphone.

17 THE WITNESS: Oh. It's definitely an Afghani
18 restaurant, yeah.

19 THE COURT: Is that the one that you said you usually
20 went to?

21 THE WITNESS: That's the one we would usually go to,
22 yeah.

23 BY MS. BROOK:

24 Q Okay. And you, usually, that would be Malik as well as
25 Ibrahim?

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Yeah.

2 Q You also testified when talking to defense counsel about
3 going over to the -- to Malik's house on Cochise?

4 A Uh-huh.

5 Q And that's a place --

6 A Yes.

7 Q That's a place that would you go to regularly?

8 A Yes.

9 THE COURT: Let me interrupt you for just one moment.
10 474 is not admitted. What's admitted is 475, which I
11 think is another picture of the inside of that same
12 restaurant.

13 MS. BROOK: One with table clothes. One without.

14 BY MS. BROOK:

15 Q Putting on the overhead what has been admitted as 475.

16 And so let's just rewind for a moment when you were
17 talking about the Afghani restaurant that you would go to with
18 Malik and Ibrahim, does this look like that restaurant that
19 you were talking about?

20 A Yes.

21 Q I was asking you a moment ago about the defendant's home,
22 about Malik's home on Cochise.

23 A Right.

24 Q And you have testified that you have been there numerous
25 times.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 A Right.

2 Q And you know that he moved out of that home about a
3 month-and-a-half before Ibrahim died, correct?

4 A Yes.

5 Q I'm going to place on the overhead a photograph No. 603.

6 And, actually, Your Honor, may I approach to have the
7 clerk give him a copy of it. With the glare it's tough to
8 see?

9 THE COURT: Yes.

10 BY MS. BROOK:

11 Q If you can take a look at that photo and you can take it
12 out of the envelope and open it up and look at that picture.
13 So the yellow page is just a cover sheet. So that it's just
14 the picture itself.

15 A Okay. Right.

16 Q Okay. Do you recognize that room?

17 And, sir, I think it might be easier -- there's glare
18 and reflection on the picture on the screen itself. But if
19 you look at the hard copy in front of you, it doesn't have the
20 glare on it.

21 A Yeah. I recognize it. I recognize it.

22 Q And that photo was from the inside of --

23 A Cochise.

24 Q The Cochise house?

25 A Right. Yeah.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 Q Malik's Cochise house?

2 A Uh-huh. Yes.

3 Q And who do you see in that photo?

4 A Ibrahim.

5 MS. BROOK: Your Honor, the government moves to admit
6 and publish 603.

7 MR. MAYNARD: Objection. Lack of foundation. I
8 don't know when it was taken and I don't know who took it. I
9 mean --

10 Lack of foundation.

11 THE COURT: The objection is overruled. 603 is
12 admitted.

13 (Exhibit No. 603 admitted in evidence.)

14 MS. BROOK: May I have one moment?

15 THE COURT: Yes.

16 MS. BROOK: Your Honor, I have no further questions.

17 THE COURT: Mr. Maynard?

18 **REDIRECT EXAMINATION**

19 BY MR. MAYNARD:

20 Q A couple of questions.

21 We looked at the photograph of the Afghani
22 restaurant.

23 A Uh-huh.

24 Q Do you have any idea over the past year or the year prior
25 to Mr. Simpson dying how many times you have been in that

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 restaurant?

2 A Hum. Not very many. I'd say maybe -- I mean -- you say
3 within the last two years? Probably about maybe less than
4 five times.

5 Q Okay. Do you recall what Mr. Simpson would eat when he
6 would go in that particular restaurant?

7 A I'm not sure. I think he liked -- I'm not sure. I think
8 he liked cheeseburgers. I'm not sure.

9 Q Do you recall whether or not you went in that restaurant
10 the day that you ended up going to the T-Mobile store?

11 A I'm not sure if we went to that one or we went to a
12 different one because there's another Afghani restaurant
13 that's like a little farther north. And I'm not sure if we
14 went to that one or the other one.

15 Q All right. You never went shooting with Simpson and Soofi
16 and Abdul Malik, correct?

17 A Never.

18 Q Were you aware -- you said you were aware they did go
19 shooting?

20 A Right.

21 Q At least one time?

22 A Right.

23 Q How did you become aware of that?

24 A I can't remember. I'm not sure. I think Abdul Malik may
25 have told me. I don't remember how, but I do know that they

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 went out shooting.

2 Q Okay. Did -- you apparently called Ali Soofi on May 4th
3 or thereabouts, correct?

4 A Yes.

5 Q It looks like you were trying to get his phone number from
6 Abdul Malik?

7 A Yes.

8 Q Okay. Was your purpose at that time to tell him not to
9 talk to the FBI or was there another --

10 MS. BROOK: Objection. Leading.

11 THE COURT: Sustained.

12 BY MR. MAYNARD:

13 Q What was your purpose in calling Ali Soofi on that
14 particular day?

15 A My purpose, actually, was, if I remember correctly, I knew
16 that since he was Nadir's brother, that most likely the FBI
17 will come hunting him down and harass him as far as I was
18 concerned. And so I called him up because he -- when I talked
19 to him, he immediately started telling me how --

20 MS. BROOK: Objection. Hearsay.

21 THE COURT: Sustained. Please ask a different
22 question.

23 MR. MAYNARD: You can't tell us what somebody else
24 says.

25 THE WITNESS: Okay.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 BY MR. MAYNARD:

2 Q What was your purpose in calling him?

3 A Oh. It was just to make sure, basically, that he protect
4 himself because I figured they would come after him.

5 Q You testified on cross-examination concerning the
6 telephone text messages you got from Abdul Malik --

7 A Uh-huh.

8 Q -- the evening that he came to your house.

9 Were you two having a spat at the time?

10 MS. BROOK: Objection. Beyond the scope.

11 THE COURT: Overruled. You may answer.

12 THE WITNESS: Um, at the time I can't remember why.
13 I guess because I was always kind of mad at Abdul Malik. So
14 at this particular time I may have been still a little angry
15 with him.

16 BY MR. MAYNARD:

17 Q Were there times when he would call you and you wouldn't
18 answer the phone calls?

19 A Oh, yeah.

20 MR. MAYNARD: Just a second, Your Honor.

21 BY MR. MAYNARD:

22 Q What were the kinds of things that you were angry at Abdul
23 Malik about that you wouldn't answer his phone calls?

24 MS. BROOK: Objection. Relevance.

25 THE COURT: Overruled. You may answer.

CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

1 THE WITNESS: I don't know. He was famous for, like,
2 supposed to come pick me up and he don't pick me up. And I
3 would be heated about it, angry about it, because, you know,
4 like he was supposed to show up. Show up.

5 If you're a man of your word, show up. But he was
6 always so busy doing something else, he would either forgot or
7 whatever. And so it just infuriated me, so I just like didn't
8 want to talk to him, you know.

9 MR. MAYNARD: I don't have any further questions,
10 Your Honor.

11 THE COURT: May Mr. Wahid be excused as a witness?

12 MR. MAYNARD: Yes.

13 THE COURT: Is there any objection, Ms. Brook?

14 MS. BROOK: No, Your Honor.

15 THE COURT: Thank you, sir. You may step down and
16 you are excused.

17 (End of Excerpt of Proceedings.)

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CR15-00707-SRB

ABDUL KHABIR WAHID

3-8-16

C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 23rd day of May, 2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE